

**SUPREME COURT MINUTES
THURSDAY, JULY 8, 2004
SAN FRANCISCO, CALIFORNIA**

S104862

C033593 Third Appellate District

PEOPLE v. MOSBY

Opinion filed: Judgment affirmed in full

Majority Opinion by Kennard, J.
--- joined by George, C.J., Baxter, Werdegar,
Chin, Brown, Moreno, JJ.

S115090

C038802 Third Appellate District

PEOPLE v. CARMONY

Opinion filed: Judgment reversed and remanded

Opinion by Brown, J.
--- joined by George, C.J., Kennard, Baxter,
Werdegar, Chin, Moreno, JJ.
Concurring Opinion by Moreno, J.
--- joined by Chin, J.

S121670

SCOTT (STERLING B.) ON H.C.

Petition ordered withdrawn

pursuant to written request of petitioner.

S124730B174929 Second Appellate District,
Division Seven

MILLER (DONALD) ON H.C.

Time extended to grant or deny review

to August 10, 2004

S124825A106321 First Appellate District,
Division Four

COOKE (DAMON) ON H.C.

Time extended to grant or deny review

To August 12, 2004.

S124895A106334 First Appellate District,
Division Five

FRIAS (LUIS) ON H.C.

Time extended to grant or deny review

to August 17, 2004.

S124985
F045324 Fifth Appellate District

CARL (CHARLES DANIEL) ON H.C.
Time extended to grant or deny review

to August 19, 2004.

S042323

PEOPLE v. BURNEY (SHAUN K.)
Extension of time granted

to September 13, 2004 to file appellant's reply brief. After that date, only one further extension totaling about 40 additional days will be granted. Extension is granted based upon counsel Geraldine Russell's representation that she anticipates filing that brief by 10/25/2004.

S054291

PEOPLE v. LEONARD (ERIC)
Extension of time granted

to August 16, 2004 to file respondent's brief. After that date, no further extension is contemplated. Extension is granted based upon Deputy Attorney General Patrick J. Whalen's representation that he anticipates filing that brief by 8/15/2004.

S056842

PEOPLE v. RICCARDI (JOHN A.)
Extension of time granted

to September 7, 2004 to file respondent's brief. After that date, no further extension will be granted. Extension is granted based upon Deputy Attorney General Michael W. Whitaker's representation that he anticipates filing that brief by 9/5/2004.

S076582

PEOPLE v. BLACKSHER (ERVEN R.)
Extension of time granted

to August 9, 2004 to file appellant's opening brief.

S121184**OCHOA (SERGIO) ON H.C.**
Extension of time granted

to August 6, 2004 to file the reply to the informal response to the petition for writ of habeas corpus. Extension is granted based upon Deputy Federal Public Defender Harry Simon's representation that he anticipates filing that document by 8/6/2004. After that date, no further extension will be granted.

S124067E031542 Fourth Appellate District,
Division Two**PEOPLE v. IBARRA**
Extension of time granted

On application of respondent and good cause appearing, it is ordered that the time to serve and file the opening brief on the merits is extended to and including August 9, 2004.

S124464A102399 First Appellate District,
Division Five**PACIFIC LUMBER v. WATER RESOURCES**
Extension of time granted

to August 30, 2004 to file respondents' opening brief on the merits. No further extensions are contemplated.

S124503

C044625 Third Appellate District

PEOPLE v. SHELTON
Counsel appointment order filed

Upon request of appellant for appointment of counsel, Central California Appellate Program is hereby appointed to represent appellant on his appeal now pending in this court. Appellant's brief on the merits shall be served and filed on or before thirty (30) days from the date respondent's opening brief on the merits is filed.

S124636

H026217 Sixth Appellate District

PEOPLE v. HOFSCHEIER
Counsel appointment order filed

Upon request of appellant for appointment of counsel, the Sixth District Appellate Program is hereby appointed to represent appellant on his

appeal now pending in this court.
Appellant's brief on the merits shall be served and filed on or before thirty (30) days from the date respondent's opening brief on the merits is filed.

S125177**MYUNG ON REINSTATEMENT**
Petitioner reinstated

Upon petition for reinstatement and recommendation of the State Bar of California, it is ordered that **TOM DONG MYUNG** be reinstated as a member of the State Bar of California upon payment of the fees and taking the oath required by law.

S089894**LADEN ON DISCIPLINE**
Probation revoked

Good cause having been shown, it is hereby ordered that probation is revoked, the previously ordered stay of execution of suspension in the above entitled matter is lifted, and **Richard Michael Laden, State Bar No. 82188**, is actually suspended from the practice of law for 90 days and until he makes restitution in full to June Allen (or the Client Security Fund, if appropriate) as ordered by the Supreme Court on September 20, 2000, in case number S089894, and furnishes satisfactory proof of this restitution to the State Bar's Office of Probation in Los Angeles. If Laden is actually suspended for two years or more, he must remain actually suspended until he provides proof to the satisfaction of the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. It is further ordered that Laden comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this order.* Costs are awarded to the

State Bar in accordance with Business and Professions Code section 6086.10 and payable in accordance with Business and Professions Code section 6140.7.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S107949

KRONENBERG ON DISCIPLINE

Probation revoked

Good cause having been shown, it is hereby ordered that probation is revoked, the previously ordered stay of execution of suspension in the above entitled matter is lifted, and **DONALD BRUCE KRONENBERG, State Bar No. 98590**, must be actually suspended from the practice of law for two years and until he provides proof to the satisfaction of the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. Credit toward the period of actual suspension shall be given for the period of involuntary inactive enrollment which commenced on April 12, 2004 (Business & Professions Code section 6007(d)(3)).

Donald Bruce Kronenberg is also ordered to comply with rule 955 of the California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S124113

MENDEZ ON DISCIPLINE

Recommended discipline imposed

It is ordered that **DAVID GERARD MENDEZ, State Bar No. 99953**, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed

on probation for one year subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its decision filed on February 17, 2004. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

S124114**MURPHY ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **TAMELA J. MURPHY, State Bar No. 190107**, be suspended from the practice of law for one year, that execution of suspension be stayed, and that she be placed on probation for two years on condition that she be actually suspended for 60 days. Respondent is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its decision filed February 6, 2004. It is further ordered that she take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

S124115**BIEL ON DISCIPLINE**

Recommended discipline imposed: disbarred

It is hereby ordered that **PHILLIP JOEL BIEL, State Bar No. 160310**, be summarily disbarred from the practice of law and that his name be stricken from the roll of attorneys. Respondent is also ordered to comply with rule 955 of the California Rules of Court, and to

perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar. *(See Bus. & Prof. Code, § 6126, subd. (c).)

S124118**CEBALLOS ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **GUSTAVO G. CEBALLOS, State Bar No. 189807**, be suspended from the practice of law for 18 months, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on March 3, 2004. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar and one-half of said costs must be added to and become part of the membership fees for the years 2005 and 2006. (Bus. & Prof. Code, § 6086.10.)

S124119**MERRILL ON DISCIPLINE**

Recommended discipline imposed: disbarred

It is hereby ordered that **SCOTT RAYMOND MERRILL, State Bar No. 141637**, be disbarred from the practice of law and that his name be stricken from the roll of attorneys. Respondent is also ordered to comply with rule 955 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar. *(See Bus. & Prof. Code, § 6126, subd. (c).)

S124121

WOODS ON DISCIPLINE

Recommended discipline imposed

It is ordered that **ROBERT BRIAN WOODS, State Bar No. 178125**, be suspended from the practice of law for two years, that execution of the suspension be stayed, and that he be actually suspended from the practice of law for 120 days and until the State Bar Court grants a motion to terminate his actual suspension pursuant to rule 205 of the Rules of Procedure of the State Bar of California, as recommended by the Hearing Department of the State Bar Court in its decision filed on March 1, 2004, as modified by its order filed March 11, 2004. Respondent is also ordered to comply with the conditions of probation, if any, hereinafter imposed by the State Bar Court as a condition for terminating his actual suspension. If respondent is actually suspended for two years or more, he must remain actually suspended until he provides proof to the satisfaction of the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. It is further ordered that respondent take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order or during the period of his actual suspension, whichever is longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that respondent comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S124122**ROBERTS ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **JONATHAN EDWARD ROBERTS, State Bar No. 166043**, be suspended from the practice of law for six months, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on February 25, 2004. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

S124124**LIA ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **JAMES D. LIA, State Bar No. 37567**, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on February 20, 2004. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

S124132

CREQUE ON DISCIPLINE

Recommended discipline imposed

It is ordered that **GEORGE ANTHONY CREQUE, State Bar No. 115580**, be suspended from the practice of law for two years, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including nine months actual suspension, recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on November 26, 2003, as modified by its order filed March 5, 2004. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.* Costs are awarded to the State Bar and one-third of said costs must be added to and become part of the membership fees for the years 2005, 2006 and 2007. (Bus. & Prof. Code section 6086.10.)

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S124133

BURGE ON DISCIPLINE

Recommended discipline imposed: disbarred

It is hereby ordered that **BRUCE CLYDE BURGE, State Bar No. 187722**, be disbarred from the practice of law and that his name be stricken from the roll of attorneys. **Bruce Clyde Burge** is also ordered to comply with rule 955 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S124134**VAWTER ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **JOHN K. VAWTER, State Bar No. 145683**, be suspended from the practice of law for two years and until he provides proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and present learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, that execution of the suspension be stayed, and that he be placed on probation for three years subject to the conditions of probation, including 90 days actual suspension, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on March 4, 2004. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.* Costs are awarded to the State Bar pursuant to Business & Professions Code section 6086.10 and payable in equal installments for membership years 2005 and 2006.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S124136**KAUFMAN ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **JACK H. KAUFMAN, JR., State Bar No. 57450**, be suspended from the practice of law for five years and until he makes restitution to Roslyn Churgin Lacher (or the Client Security Fund, if appropriate) in the amount of \$ 29,047.50 plus interest in the amount of \$14,523.75, and furnishes satisfactory proof thereof to the Probation Unit, State Bar Office of the Chief Trial Counsel, that

execution of the suspension be stayed, and that he be placed on probation for five years on condition that he be actually suspended for 2.5 years and until he provides proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and present learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. Respondent is further ordered to comply with the other conditions of probation, including restitution, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on December 4, 2003, as modified by its order filed on February 27, 2004. It is also ordered that respondent take and pass the Multistate Professional Responsibility Examination during the period of his actual suspension. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Respondent is further ordered to comply with rule 955 of the California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this order.* Costs are awarded to the State Bar pursuant to Business & Professions Code section 6086.10 and payable in equal installments for membership years 2005, 2006, 2007 and 2008.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S124137

NANCE ON DISCIPLINE

Recommended discipline imposed

It is ordered that **CHRISTOPHER J. NANCE, State Bar No. 118066**, be suspended from the practice of law for three years and until he provides proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and present learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, that execution of the suspension be stayed, and that he be placed on probation for five years subject to the conditions of probation, including restitution and one year actual

suspension, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on January 12, 2004. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7. *(See Bus. & Prof. Code, § 6126, subd. (c).)

S124138**NUSBAUM ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **ROBERT MICHAEL NUSBAUM, State Bar No. 149672**, be suspended from the practice of law for two years, that execution of suspension be stayed, and that he be placed on probation for two years on condition that he be actually suspended for 60 days. Respondent is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed February 20, 2004, as modified by its order filed March 10, 2004. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar and one-half of said costs must be added to and become part of the membership fees for the years 2005 and 2006. (Bus. & Prof. Code, § 6086.10.)

S124294**DEL CAMPO ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **NOLAN A. DEL CAMPO, State Bar No. 152113**, be suspended from the practice of law for one year and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including 90 days actual suspension and restitution, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on March 2, 2004, as modified by its order filed April 8, 2004. It is also ordered that respondent take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order or during the period of his actual suspension, whichever is longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and payable in accordance with Business and Professions Code section 6140.7.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S125989**ELIAS ON RESIGNATION**

Resignation accepted with disc. proceeding pending

The voluntary resignation of **STEVEN ERNEST ELIAS, State Bar No. 119035**, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply

with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.* Costs are awarded to the State Bar.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S125999

STUART ON RESIGNATION

Resignation accepted with disc. proceeding pending

The voluntary resignation of **STEVEN JOSEPH DUCA STUART, State Bar No. 111442**, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.* Costs are awarded to the State Bar.

*(See Bus. & Prof. Code, § 6126, subd. (c).)